
IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF UTAH
CENTRAL DIVISION

KEVIN WINSTON, et al.,

Plaintiffs,

v.

SALT LAKE CITY POLICE
DEPARTMENT, et al.,

Defendants.

MEMORANDUM DECISION AND
ORDER DENYING PLAINTIFFS'
MOTION TO STRIKE

Case No. 2:12-CV-1134 TS

This matter is before the Court on Plaintiffs' Motion to Strike certain portions of Sergeant Robert Eldard's ("Sgt. Eldard") declaration and an accompanying exhibit. For the reasons discussed more fully below, the Court will deny Plaintiffs' Motion.

Sgt. Eldard is an employee of Salt Lake City Police Department ("SLCPD") and has been the sergeant over the SLCPD gang unit since 2009. Defendants have offered his declaration in its Memorandum in Opposition to Plaintiffs' Motion for Class Certification.¹ Sgt. Eldard's declaration is offered to describe the SLCPD database that contains the street-check data, which was analyzed by Plaintiffs' expert Dr. Nathan Perry Ph.D. Defendants rely on Sgt. Eldard's declaration to demonstrate that, within Dr. Perry's dataset, there were only 20 individuals under the age of 19 at the time they were identified as gang members when they were entered into the database. The comparison supporting this conclusion is attached as Exhibit B to Sgt. Eldard's declaration.²

¹ Docket No. 118-2.

² Docket No. 118-2 Ex. B.

Plaintiffs move to strike the portions of Sgt. Eldard's declaration that are related to Exhibit B of his declaration as well as Exhibit B. Plaintiffs' main contention is that Sgt. Eldard said he made a comparison between SLCPD records and the dataset provided by Dr. Perry to produce Exhibit B when, in fact, Sgt. Eldard did not make that comparison.³

Defendants concede that Sgt. Eldard relied on Dean Larson, an IT professional within the police department, and staff within the City Attorney's Office to produce Exhibit B.⁴ Mr. Larson pulled the names and birthdates of those within the SLCPD database, who were under the age of 19 when they were added to the database, and staff within the City Attorney's Office compared those names to the individuals included in Dr. Perry's data.⁵

Plaintiffs state, "If Sgt. Eldard or Defendants had described counsel's and Mr. Larson's efforts in Sgt. Eldard's declarations or their opposition brief to class certification, Plaintiffs would not have brought this Motion."⁶ Attached to Defendants' Opposition to this Motion is Mr. Larson's declaration describing the origins of Exhibit B.⁷ The Court, being aware of Exhibit B's factual foundation, will consider it along with Mr. Larson's declaration in its determination of Plaintiffs' Motion for Class Certification. Therefore, the Court will not strike any portion of Sgt. Eldard's declaration or Exhibit B. Defendants are directed to make Mr. Larson available for deposition within a reasonable time if such a deposition is requested by Plaintiffs.

³ Docket No 158, at 2.

⁴ Docket No. 153, at 4–5.

⁵ *Id.*

⁶ Docket No. 158, at 2 n.1.

⁷ Docket No. 153-1.

Plaintiffs' motion also seeks the Court to order Defendants to produce disclosures under Rule 26(a)(1)(B). Magistrate Judge Wells already ruled on this part of the Motion and this portion of the Motion is moot.⁸

It is therefore

ORDERED that Plaintiffs' Motion to Strike (Docket No. 140) is DENIED.

Dated this 29th Day of June 2015.

BY THE COURT:



TED STEWART
United States District Judge

⁸ Docket No. 167, at 2.

United States District Court
for the
District of Utah
June 29, 2015

*****MAILING CERTIFICATE OF THE CLERK*****

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2:12-cv-01134-TS-BCW

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